

Political pressure on reforming international environmental law

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SLOW INTERNATIONAL RECOGNITION

- **Birth of environmentalism and the Vietnam war main drivers to the birth of environmental law.**
 - A protocol to the Geneva convention from 1977 defined the legal threshold for environmental criminality during conflict: Widespread, long-term and severe. (Also in the 1976 UN Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques Convention.)
- **With the end of the Cold War, many saw the possibility of a new world order with respect to principles and the revival of the UN system.**
 - After the Gulf War, new guidelines for environmental consideration in conflicts were adopted, and the installation of the Claims Commission a milestone.
 - The Criminal Tribunal set up after the war in Yugoslavia in the late 1990:s was seminal. Environmental proportionality was assessed for at least some war activities.
 - The Rome Statute made the environment a subject of war activities. Even if the environment does not harbour military resources, the attack shall not be disproportionate.

MAJOR ISSUES

1. Political reluctance to address the environment during war time

- May be provocative to talk about environmental protection when people are dying and tortured.
- If not, environmental crimes have yet to be described as mass atrocities, the environment is still a silent victim and harm depicted “slow violence”
- Between 1990 and 2016, only 19 % of UN security council resolutions contain references to the environment and natural resources.
- The UN Meeting Stockholm+50 key recommendations did not mention environmental atrocities at all – not even during peace time.

MAJOR ISSUES

2. The weakness and lack of international law

- Recently, the UN International Law Commission put forward the draft Principles on the Protection of the Environment in Relation to Armed Conflicts (PERAC). Although a milestone, no treaty was proposed, leaving the measures voluntary.
- The Rome statutes set a high bar for war atrocities.
- Ecocide is the missing piece in national and international law books.
- Major driver and funder of conflicts, fossil fuels, are not being managed in an international framework. A Fossil Fuel Non-Proliferation Treaty would solve the issue of non-regulated fossil fuel supplies.

3. Weak adherence, implementation and enforcement of current legislation

- Environmental criminality comprises one of the most under-prosecuted areas.
- Lack of funding for investigating environmental criminality and collecting data.
- Current investigators are not trained to detect possible environmental atrocities.
- Weak cooperation with civil society organisations and other eyes on the field.

A REVIVAL OF INTERNATIONAL ENVIRONMENTAL LAW?

- The Russian military invasion has increased the understanding that environmental damage can leave some of the longest lasting impacts on a country, compromising efforts to rebuild decades after active hostilities have ceased.
 - Joint Statement to the UNEA and Open Letter from Environmental Peacebuilding Association.
- Wider political support to the view that this very war should not become another example of severe environmental crimes being discussed academically when the war has ended.
 - The Iraq war example.
 - The EU Parliament Resolution charting a new path.
- Legal experts discuss the invoking of applicable articles. The environmental consequences of the Russian attacks are long-term, severe and widespread, and not only focused on military targets. This presents an important opportunity to test the effectiveness of Article 8(2)(b)(iv). If no one is held accountable for the environmental atrocities, they will be perceived as acceptable.
 - Now we have modern communication technology and an interconnected global community that has access to information and massive expertise.

THE PROPOSAL

- We do not have the luxury to only wait for the recognition of ecocide. Also, it takes time for the UN system to set up claims or compensation mechanisms or for the ICC to finish its investigation.
- We have to end the impunity for environmental atrocities by invoking the existing articles as much as possible.
- Parallel to top-down approaches, let's do bottom-up international justice. Let's use the power of the crowd and democratize the system by empowering the authorities to do what they should do.
- Setting up an **investigative mechanism** serves many needs:
 - Funds and coordinates evidence-collectors and case-builders.
 - Ensures meaningful input from vulnerable and marginalized groups.
 - Produces cases and uses the law in a creative way by finding applicable articles. Not only criminal law, but also civil and administrative law.
 - Provides cases to countries which readily takes on cases under the principle of universal jurisdiction.
 - It's already a proven concept in the case of Myanmar.

CONCLUSIONS

- Our legal system is dangerously anthropocentric. So far, legal science has had another feeling of what is essential, relevant and important. Its values must change to acknowledge the linkage between human rights and environmental security. That can only be done by installing **robust and binding international frameworks to hold states, companies and armed groups accountable for environmental atrocities.**
- We already have legally and technically feasible ways to force Russia and its responsible representatives to pay for the destruction inflicted on the Ukrainian environment. What is needed is political will.
- We cannot wait for a global consensus, and compelling political commitment is not limited to UN hallways.
- “Now, if ever, would be the time for the international community to finally draw a global moral line concerning environmental atrocities, and put an end to the impunity for ecocide.”